



LONDON POLICING ETHICS PANEL

Report on conduct of searches exposing intimate parts by the Metropolitan Police Service

September 2022

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EXECUTIVE SUMMARY

The London Policing Ethics Panel is currently carrying out a project looking at openness and transparency in the Metropolitan Police Service. As part of our work we are examining police searches exposing intimate parts, and strip searches in custody, because these demonstrate important aspects of openness and transparency.

We are publishing this interim report in response to current public interest in searches exposing intimate parts, which have in part been prompted by the publication of the Child Q report. In 2021, MPS recorded 4,287 more thorough searches where intimate parts were exposed (known as MTIPS). MTIPS are carried out on people who have not been arrested, so this total *excludes* any searches on people who have been arrested and which therefore take place in custody. The vast majority of MTIPS (a total of nearly 4,000 in 2021) were of adults. Other organisations have commented on the issues with regards to children, so in this report we have focused mainly on searches of adults. We do however summarise observations made by MOPAC's Young People's Action Group.

Section One sets out the general legal and professional basis for MTIPS. They are governed by the legal framework that applies to stop and search, notably the Codes of Practice issued under the Police and Criminal Evidence Act (PACE). Guidance is also supplied in the College of Policing *Authorised Professional Practice*. We summarise relevant aspects of both of these.

In Section Two we discuss the nature and extent of the intrusion that searches exposing intimate parts represent. We examine the intrusion from a social psychological, ethical, and human rights perspective. We describe how cultural prohibitions associated with nudity, sexuality, and personal security make forced bodily exposure a source of humiliation, shame, embarrassment, fear, and potentially lasting trauma. We suggest that such incursion into bodily integrity makes searches exposing intimate parts qualitatively different from other forms of stop and search. We view such searches as an exceptional power that must be exercised only when absolutely justified and is subject to robust controls.

In Section Three we outline policing justifications for MTIPS. MTIPS enables officers to locate small items associated with criminal activity that are concealed about the body. The nature of such items means that some 80% of MTIPS are carried out on suspicion of drug offences. We recognise the policing challenges that MTIP searches address, and we supply five examples of recent MTIPS cases showing when officers have perceived legitimate grounds for such a search. We discuss the nature of the balancing exercise that is required to make out necessity and proportionality given the scale of the intrusion that searches exposing intimate parts present. We invite consideration whether such searches should be restricted to more serious offences or cases of harm, and whether they would be better carried out only following an arrest. We also consider the impact of MTIPS on minors and vulnerable adults, and the arguments for and against making these groups exempt from such searches.

Section Four addresses the current controls on MTIPS. We review the MPS MTIPS guidance, noting instances where the MPS guidance surpasses the requirements of the College of Policing *Authorised Professional Practice* and others where it falls short. Finally we discuss monitoring and assurance systems, noting that current data collection practices limit analysis and make it difficult to implement effective monitoring and assurance. We make suggestions regarding the minimum data necessary to support robust supervision and effective analysis of MPS MTIPS practice.

By way of a conclusion we have included a diagrammatic representation of the processes leading to MTIPS, alongside the ethical considerations and issues of openness and transparency at each stage.

We make a total of nine recommendations. These appear at the end and are linked to supporting argument in the text.

- Recommendation 1 Consider whether use of MTIPS is justified in cases of possession of small quantities of cannabis, and provide a reasoned account of this position.
- Recommendation 2 Consider whether MPS should use arrest powers instead of MTIPS, and provide a reasoned account of this position.
- Recommendation 3 Improve guidance on information that should be given by officers at the point of a decision to proceed to MTIPS.
- Recommendation 4 Justify or change current MPS practice of not using audio recording during MTIPS.
- Recommendation 5 Evaluate the introduction of MTIPS search areas.
- Recommendation 6 Give subjects information about the process of the search if this can be done without compromising the integrity of the search.
- Recommendation 7 Consider how to reliably judge the age of young people to be MTIP searched and engage with MOPAC on this challenge
- Recommendation 8 Continue to improve processes that enhance decision making and accountability, in particular by utilising prompts in data recording.
- Recommendation 9 Take steps to ensure, and provide assurance, that use of MTIPS is limited only to those situations where the scale of intrusion is genuinely justifiable

SECTION ONE - BACKGROUND

Reasons for an interim report on MTIPS

The London Policing Ethics Panel is currently carrying out a wider project looking at openness and transparency in the Metropolitan Police Service, as a contribution to the Met's goal of continuously building and rebuilding trust in policing. As part of our work we have undertaken a case study looking at policy, practice, and governance of police searches exposing intimate parts.

In 2021, MPS recorded 4,287 more thorough searches where intimate parts were exposed (known as MTIPS). [\(Please see clarification of the nature of the searches below.\)](#) Some 266 of these were of people below the age of 18.¹ Out of the total of all MTIPS searches that year, 51% resulted in no further action.² There has been understandable controversy regarding such searches involving children and young people, but as these figures show the vast majority of searches exposing intimate parts are of adults. The total number of MTIPS almost doubled between 2018 and 2021. [\(See Appendix 1\)](#)

Searches exposing intimate parts illustrate why and how openness and transparency are important at individual, organisational and societal levels. First, such searches call for openness and transparency in the relationship between an officer proposing to carry out such a search, and individual members of the public faced with a potentially humiliating experience who are unlikely to know their rights in relation to it. Second, these searches call for openness and transparency in internal recording and monitoring, both for internal organisational governance purposes and to facilitate external review by bodies such as MOPAC, IOPC and (latterly) the Children's Commissioner. Third, they raise larger questions about how policing explains the need for and their use of the exceptional powers that police officers have been granted.

We decided to publish an interim report because of the current public interest in police searches exposing intimate parts and the efforts already being made by MPS, that we aim to support, to improve the ways in which these searches are carried out. We acknowledge public interest in specific cases of concern, and are aware that the IOPC is currently considering some cases referred to it.³ We do not comment on individual cases, but offer this report to contribute to reflection and discussion about search practices in MPS and more widely in UK policing.

We have authored the report using information and insights supplied by MPS, the Mayor's Office for Policing and Crime, the Greater London Assembly, and the National Policing Ethics Committee. We have also drawn on published materials including the College of Policing's *Authorised Professional Practice* and research literature, cited in footnotes. We are appreciative of the efforts made by MPS to enable the preparation of this report, supplying information and responding openly and helpfully to our questions. We are grateful to all those who have contributed their time and expertise.

The subject of the report

In this report we are only considering searches that the MPS refers to as MTIPS: more thorough searches where intimate parts are exposed. These searches are carried out independent of arrest in order to confirm or disconfirm suspicion that a prohibited item of some sort (e.g. drugs, weapons,

¹ The nature of MPS data can make it difficult for MPS to produce precise numbers because of the way searches are recorded (discussed later). These figures were supplied to the Panel in May 2022.

² MPS data supplied

³ <https://www.policeprofessional.com/news/mps-must-take-immediate-steps-following-complaints-over-strip-searches-of-children-says-iopc/>

proceeds of crime) has been concealed in a suspect's undergarments or in their external genitalia. If the suspected or otherwise prohibited items are seen, then an arrest may follow.⁴

MTIPS are governed by the legal framework that applies to stop and search, notably the Codes of Practice issued under the Police and Criminal Evidence Act (PACE). They are legally distinguishable from searches carried out post-arrest in an MPS custody suite. In public parlance the term "strip search" tends to refer to both non-arrest and post-arrest situations, but we learned from MPS that they use the term "strip search" to refer only to searches carried out post-arrest.

Powers to require removal of clothing during a search and without formal arrest are set out in PACE⁵ and in the College of Policing's *Authorised Professional Practice*, ranging from partial to full removal of clothing and ascending order of intrusiveness:

- PACE Code A para 3.5: removal of outer coat, jacket or gloves
- PACE Code A para 3.6: a more thorough search, out of public view, where inner garments (more than outer coat, jacket, gloves, headgear or footwear) can be removed for search purposes
- PACE Code A para 3.7: searches exposing intimate parts, which must take place out of public view and not in a police van. These searches must be conducted in accordance with paragraph 11 of Annex A to PACE Code C.

The last of these - Searches Exposing Intimate Parts - are the searches that MPS refers to as MTIPS. For the avoidance of doubt, we should make clear that searches exposing intimate parts *do not permit any touching of intimate parts* by an officer. If an item is seen to be concealed in genitalia, the subject should be asked to hand it over themselves.

It should be noted that PACE Code A, the College of Policing's *Authorised Professional Practice* (APP) on Stop and Search,⁶ and the MPS's own guidance to officers, all emphasise that a search exposing intimate parts must not be carried out *merely* on grounds that a more thorough search has failed to yield a prohibited item. In principle, there must be additional substantive grounds justifying a decision to carry out this more intrusive search. The searching officer must reasonably consider that the detained person may have concealed an article for which the officer has reasonable grounds to search; also that an MTIP search is *proportionate, and it is necessary to find such an article*.⁷ The proportionality and necessity condition is central to PACE, the APP, and the MPS guidance. As we suggest later, assessing proportionality requires an understanding of the impact of a search exposing intimate parts, and necessity requires a compelling policing goal.

However, distinctions that appear clear on paper – for example between Paragraphs 3.5, 3.6, and 3.7 of PACE Code A - are apt to become more blurred in practice. These distinctions require officers to have clarity about the grounds for a search exposing intimate parts, and about distinctions between the powers they hold. They also require supervisory and governance systems that reflect and reinforce these distinctions.

These stipulations as to how police search powers should be used are not set out directly in legislation, but in different sections of PACE (Code A para 3.5 – para 3.7, and also in Paragraph 11 of

⁴ The primary purpose of stop and search powers is to enable officers to allay or confirm suspicions about individuals without exercising their power of arrest. (PACE Code A para 1.4)

⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903810/pace-code-a-2015.pdf

⁶ <https://www.college.police.uk/app/stop-and-search>

⁷ This requirement is taken from MPS Guidance – emphasis added

Annex A to PACE Code C). They are not readily accessible, nor amenable to public understanding and scrutiny. The lack of clarity in legislation, and the fine line between the justification for a 'more thorough search' and a 'more thorough search exposing intimate parts' provides scope for considerable variation in how officers exercise their discretion and affords only minimal protection to citizens' privacy rights.

In our view this is a deficit in law-making and in the safeguards supposedly supplied by PACE, but it is the backdrop against which the MPS is necessarily exercising its powers.

Considering both adults and minors

In this report we consider MTIP searches of both adults and minors (for current purposes, by minors we mean those under the age of 18). Following the Child Q case there has been a particular focus on searches exposing intimate parts involving children and young people, including a report by the Children's Commissioner and an expected report on MPS cases of concern by IOPC⁸.

However, this should not detract from recognising how intrusive MTIPS can be for adults. Bodily privacy and integrity are important to all persons. Additionally, a search exposing intimate parts may be especially distressing for people who have experienced sexual exploitation and abuse, torture, trans people, people with impaired mental cognition, those who are mentally unwell, those who may have body disfigurements, people from cultures that place special emphasis on physical modesty, disabled people, and potentially others.⁹

We have therefore chosen to focus our report and recommendations on issues affecting all those subject to MTIPS and lessened the emphasis on people under the age of 18. This is not because we think this group less important, but because authoritative stakeholders have already intervened in this area. It has already been acknowledged by MPS that MTIPS searches and custody strip searches are especially distressing for minors and should be subject to special controls. We agree with this.

[\(These new measures are summarised below\)](#)

A note on language

The term child is not a neutral descriptor. It carries an emotional valence, suggesting both vulnerability in the young and - often to the chagrin of young people moving towards adulthood - a lack of maturity and responsibility. We have therefore considered how best to describe people under the age of 18 in this report.

The Children's Commissioner adopts the approach of the UN Convention on the Rights of the Child and the Children Act 2004, which both refer to a person under the age of eighteen as a child. PACE Code A refers to people under the age of 18 as children, and when appropriate it uses the term older children. In English law children acquire different rights and responsibilities at differing ages. Criminal responsibility starts at the age of 10, the age of consent is 16, and people under the age of 18 can validly consent to health treatment when they are judged to have sufficient maturity to consider the case at hand.

⁸ The IOPC report had not yet been published at the time of writing this report.

⁹ College of Policing APP: "Consideration should be given to vulnerability factors when assessing proportionality of impact, and the necessity of both the search itself and extent of the search. A transgender person or a person in a wheelchair, for example, may find a search involving exposure of intimate parts of the body both difficult and humiliating. A person on the autistic spectrum who cannot tolerate any physical contact may have an extreme reaction to being touched by a police officer."

To reflect the varying ages at which people under the age of 18 are treated as either vulnerable children or those holding the same responsibilities as adults, we have used the term minor throughout this report or occasionally, when context requires, children and young people. We recognise that the word 'minor' is not without negative connotations, but we use it in a legalistic sense of simply meaning under the age of majority.

SECTION TWO – THE NATURE OF THE INTRUSION IN MTIPS SEARCHES

We will shortly discuss the perceived policing need for searches exposing intimate parts, and the challenge in making decisions balancing necessity and proportionality in practice. As discussion of proportionality turns on understanding the nature of the intrusion involved in searches exposing intimate parts, we look first at the nature of the intrusion before considering what might justify it.

An exceptional power

The College of Policing *Authorised Professional Practice* notes that in legal terms “the physical act of searching a person is a use of force, even if it does not involve any element of restraint or physical compulsion”¹⁰. From a policing perspective, searches exposing intimate parts are assimilated into the category of search powers.

We infer from some of the evidence gathered to support this report (e.g. case records, actual authorisations, data monitoring) that compelling a person to expose their intimate parts may in some quarters in policing be viewed as if it were a relatively modest extension of “more thorough search out of public view” in which the person can be required to remove outer garments such as a T-shirt. While to a lay person searches exposing intimate parts seem an exceptional power, police officers can become habituated to the powers that they hold and minimise the intrusion they represent.

We suggest that from an experiential and ethical perspective, viewing searches exposing intimate parts as just an extension of stop and search diminishes appreciation of the grave nature of the intrusion. If we were to start from the position that the police action being contemplated is to inflict an embarrassing, humiliating, and potentially shameful procedure on citizens who are likely innocent of any offence¹¹, how would we seek to justify this and to manage it? We suggest searches exposing intimate parts might be better understood as a qualitatively different power than stop and search, a more egregious use of force and properly subject to more demanding controls.

In the next section we set out the experiential, ethical, and legal considerations supporting our view that the power to demand that a person expose their intimate parts to a police officer is an exceptional power, calling for special controls. The seriousness of the intrusion requires a high threshold of justification for carrying out such searches. Further, they must be subject to robust scrutiny in ways that recognise the scale of the interference with the human rights of the subject.

Social psychological analysis

People who grow up in societies where exposing one’s naked body to others is considered wrong, provocative, or even deviant, internalise these social prohibitions and experience associated emotions. The sociologist Barbara Górnicka observes that in nearly all societies “the sight of the naked human body has been hedged around with avoidances, restrictions and taboos, enforced by the emotions of fear, shame and embarrassment.”¹² She points to how exposure of the genitalia is especially taboo, because of their association with sexuality.¹³

Even when exposing the genitalia to strangers is done without coercion and in one’s own interests – as it is in medicine – both men and women can experience shame and embarrassment. To overcome discomfort the medical setting is generally carefully managed, and distancing techniques surround the exposure of intimate parts. A chaperone may be present, and clinicians are expected to have learned, or to have been taught, how to manage their own shame and embarrassment.^{14, 15}

¹⁰ <https://www.college.police.uk/app/stop-and-search/legal/legal-application>

¹¹ See the outcomes data in Appendix 1

¹² Górnicka, Barbara., *Nakedness, shame, and embarrassment: A long-term sociological perspective* 2016, Springer p. 13

¹³ Gornicka op.cit. p.133

¹⁴ Meerabeau, Liz. (1999) "The management of embarrassment and sexuality in health care." *Journal of Advanced Nursing* 29(6), 1507-1513.

¹⁵ It is notable that even in the unforced context, women who have experienced past abuse feel vulnerability and helplessness during examination to a greater extent than non-abused women. e.g. Hilden, M., Sidenius, K., Langhoff-Roos, J., Wijma, B., & Schei, B. (2003). Women's experiences of the gynecologic examination: factors associated with discomfort. *Acta obstetrica et gynecologica Scandinavica*, 82(11), 1030-1036.

Two verified sources of experiential data are eloquent reminders of the trauma that can be associated with searches exposing intimate parts.

One, unhappily now familiar source, is the Child Q case. Child Q described feeling that “Someone walked into the school, where I was supposed to feel safe, took me away from the people who were supposed to protect me and stripped me naked, while on my period...I can't go a single day without wanting to scream, shout, cry or just give up...I feel like I'm locked in a box, and no one can see or cares that I just want to go back to feeling safe again...”¹⁶

A second account (not of MPS activity) is extensively quoted in the ECHR case of *Wainwright v UK* (2006). It describes the impact on two adults, one a woman and one a man with a disability. Although the search took place on prison premises, the two adults concerned were searched as visitors, so the circumstances are akin to an MTIPs search. The court noted that by the end of the search, the woman was shaking and visibly distressed.¹⁷ While none of the officers touched her, she felt threatened by their actions and considered that she had no alternative but to comply with their instructions. Following the search she went into the toilet where she cried and vomited about four times. On returning home, she removed her clothes and bathed because she felt upset, angry and dirty. Approximately 21 months after the incident she still thought about the search about once a week, continued to get upset about it, remained angry about what had happened, and had difficulty sleeping. ([This case is discussed briefly again below.](#))

Unwanted bodily exposure, particularly of genitals, is shameful and embarrassing to those who are exposed and also to those who witness it. As the experience of the two applicants in *Wainwright* indicated, may be generated by having disturbing expectations generated by inequalities in power, uncertainty about how the search will be carried out, or fears of a sexualised encounter. People who have had no prior experience of a search exposing intimate parts may draw on imaginary templates derived from internalised anxieties or highly negative media representations.¹⁸ Equally, people who have had prior experience may anticipate a repeated experience of humiliation.

This interim report deals only with searches exposing intimate parts during policing activity, and outside of the carceral context. However, research into the impact of strip searching in prisons is indicative of the how the trauma of forced bodily exposure is culture specific and may be particularly disturbing in situations where there is an unequal power relationship. We will return to this issue in our future work on strip searching in custody.¹⁹

Ethical and human rights-based arguments

We include a brief overview here of ethical and human rights-based arguments for respecting the physical boundaries of the body. Searches exposing intimate parts are a serious infringement of bodily sovereignty, the human right to privacy, and bodily integrity.

¹⁶ Child Q Report p.11 <https://www.chscp.org.uk/portfolio/local-child-safeguarding-practice-review-child-q/>

¹⁷ As there were aggravating elements in the case of the man (unwarranted touching), we summarise here only the experience of the woman.

¹⁸ In *Wainwright*, one of the two parties feared he would be subject to anal penetration when he witnessed a prison officer donning gloves for the search.

¹⁹ Male bodies have tended to be represented in ways that convey virility, strength, and sexual agency. During the abuse that took place in Abu Ghraib prison in Iraq men were forced to be naked, undermining masculinity, creating sexual vulnerability, and breaching religious taboos. Similarly, the introduction of routine strip searches into womens prisons in Northern Ireland during the Troubles was a traumatic experience for young Catholic girls and older women. They had been socialised and educated in Catholic houses and schools where the strictest standards of modesty were impressed upon them as a matter of conscience. A report by the Anti-Discrimination Commission in Queensland 2006 reported how prisoners who had been strip searched experienced diminished self-esteem and greater feelings of vulnerability and worthlessness. Anti-Discrimination Commission Queensland 2006: 74 Refs McCulloch & George, Sutton

Bodily sovereignty

The starting point for many contemporary arguments is the political philosopher J.S. Mill's assertion of bodily sovereignty in *On Liberty* in 1859: "Over himself, over his own body and mind, the individual is sovereign". However, bodily sovereignty is subject to the harm principle. According to Mill, a legitimate purpose by which "power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others".

Privacy

Mills' principle is replicated in modern form in Article 8 of the European Convention on Human Rights. Here Mill's principle of bodily sovereignty is reworked as a right to privacy, with protection of physical and moral integrity falling under the head of respect for private life.²⁰

The application of the Convention to strip-searching was clarified in the case of *Wainwright v UK*. The people searched were relatives visiting a suspect held on remand at HMP Armley, who was thought to be dealing drugs within the prison. The Governor had ordered this suspect's visitors to be strip-searched on entry. The two submitted on the basis that if they did not acquiesce to the search, they would not be able to proceed with their visit. At the end of the process they were asked to sign a 'consent' form.

In its judgment the ECHR described strip-searching as "a highly invasive and potentially debasing procedure" and held "There is no doubt that the requirement to submit to a strip-search will generally constitute an interference under the first paragraph of Article 8 and require to be justified in terms of the second paragraph, namely as being "in accordance with the law" and "necessary in a democratic society" for one or more of the legitimate aims listed therein. According to settled case-law, the notion of necessity implies that the interference corresponds to a pressing social need and, in particular that it is proportionate to the legitimate aim pursued".

The Court went on to find that the existence of an endemic drugs problem in the prison rendered strip-searching of visitors legitimate in principle. However, a strip-search was only proportionate to the extent that the *interference was minimised* through the search being done in a dignified and respectful manner.

Bodily integrity

Being required to submit to inspection of parts of the body that are not normally naked can be understood as a threat to bodily integrity as much as a threat to privacy. As Herring and Wall (2017, p580) argue, "the body is where we experience states of well-being, it is the way in which we flourish as humans, it is the medium through which we interact with others, and it is the way in which we execute our agency".²¹ For this reason they propose a broad and all-encompassing integrity right in relation to our own bodies. This of course includes the right, under ordinary circumstances, to choose to whom intimate parts are exposed.

²⁰ *Costello Roberts v UK* 1993

²¹ Herring, J., & Wall, J. (2017). The nature and significance of the right to bodily integrity. *The Cambridge Law Journal*, 76(3), 566-588.

Outcomes and consequences

In consequentialist ethical analysis, the extent to which an action is morally supportable rests to a significant degree on the likelihood of predicted outcomes. Additionally, an ethical commitment to fairness and equality means that benefits and burdens of police action should, as far as possible, be fairly distributed. The principles of proportionality and necessity aim to limit the circumstances in which a search is carried out to those that are individually fair and genuinely justifiable, because they will have a valuable social outcome in terms of preventing harm.

We recognise that police officers cannot always accurately predict the outcomes of their actions and have to make a judgement on proportionality and necessity at the time. Retrospective data analysis cannot tell us whether every individual search decision was justifiable in light of what was known at the time the decision was made. However, reviewing aggregated data on outcomes can help us to gauge how far the ethical justification is being realised and the extent to which police action is fair.

As we noted in our introduction, of the 4,287 MTIPS searches the MPS carried out in 2021, 52% of the adult cases and 40% of searches of minors resulted in No Further Action. Putting this in numbers, 2085 adults and 106 young people experienced a search where their intimate parts were exposed and it would appear that they were not, in fact, carrying prohibited items. See Appendix 1 for further data.

We recognise the extensive debate that has taken place regarding the efficacy of Stop and Search in general, and how far it achieves a desirable balance of societal benefits weighed against unwarranted burdens. We think the same question must be asked of MTIPS. Given these outcome data, from a consequentialist perspective is the scale and nature of current MPS use of MTIP searches ethically justifiable?

To help answer that question we look in the next section at the policing justifications for MTIPS.

SECTION THREE – HOW IS THE INTRUSION JUSTIFIED?

Police are under a legal duty to prevent and detect crime. They are also required to safeguard people from harm and must conduct their duties with due regard to the human rights of individuals they engage with. Tensions exist between these duties and become apparent in the context of searches exposing intimate parts.

Policing goals and search practices

The policing *problem* is that a person may conceal weapons, drugs or other evidence of an offence about their person, for example in underwear, between their buttocks, under their breasts or in the lining of a bra. Effective concealment thwarts the policing goal of preventing and detecting crimes when contraband is of a size and nature that means it can be concealed about the person and cannot be located in an ordinary search. Such crimes are notably drug related, with the result that some 80% of MPS searches exposing intimate parts concern drug offences.²²

The Panel requested some examples of 'typical' MTIP searches to better understand the perceived need for MTIPS as expressed through current front-line practice. All the cases below took place within the 12 months to the 1st of August 2022. The examples were located by dip-sampling stop and search records and were selected through discussion during dip-sampling to be fairly illustrative of situations resulting in an MTIP search. In the opinion of the officer who selected the cases for us, they are reasonably representative of practice. The grounds given for each stop are quoted verbatim from the contemporaneous record, with redactions to ensure they are anonymised. The comments on each case were supplied by the MPS officer who reviewed the records.

Example 1 Subject: 17 y/o Male

Grounds: "Officers in a known drugs hotspot saw a male stood concealed in a doorway during the early hours. On seeing police male appeared agitated and evasive, he has began to speak to officers, he has then made off. After a short chase officers located the male. On speaking to him there was a faint smell of cannabis. Given his actions prior he was searched. Nothing was found, a strip search was conducted and two small bags of cannabis were found."

Result: Arrested

Comments: *Appropriate Adult box not ticked, unclear where the MTIPS search took place. Body Worn Video shows the officers placing the subject in a car and leaving the scene.*

Example 2 Subject: 36 y/o Male

Grounds: "Officers on foot patrol around the [Redacted] were searching for anyone taking or dealing drugs as its [sic] a very high hot spot for taking and dealing drugs. Officers came across two males [Redacted] but as they approached them one of the males put something behind him whilst his phone was on the floor with a white powder residue on it. One male was detained for a search under section 23 of the misuse of drugs act by [Redacted] but then he threw what was believed to be Class A. [Redacted] was then detained by [Redacted] but continued to move off and also tried to aggressively [sic] approach [Redacted]. I then came over and assisted in handcuffing [Redacted] and did the search."

Result: No Further Action

Comments: *In this case it appears that the subject threw away something upon police approach. The "hotspot" reason is used here, as it often appears to be used. These grounds would be stronger if linked to a particular piece of intelligence, briefing, or tasking. Officers will also often use "received wisdom" (e.g. "everyone knows about drug use at this location") as part of their grounds but may not articulate it particularly well.*

Example 3 Subject: 25 y/o Male

Grounds: "Officers from the [Redacted] were out on mobile, tasked with dealing with all aspects of ASB in and around the area, officers are full briefed on reports received of active

²² Verbal information provided by MPS

drug taking and drug dealing and the locations which are the public residents/business's and visitors to the location are greatly affected by this. [Redacted] noticed the subject and five other subjects all known to the team for class drug use standing on the steps to a side of a building at the location. Officers have seen that there is clear evidence of drug use surrounding where the group have been standing. The subject was detained under section 23 of the misuse of drugs act 1971 for the purpose of a search and full GOWISELY provided. The subject who informed officers that they were NFA23, and were found to have a large amount of cash in different pockets. Officers had immediate concerns that the subject was potentially concealing class A drugs on their person. [Redacted] [Inspector] was contacted, who authorised a further search. The further search was positive as the subject had concealed a container in their anus containing four wraps of CLASS A drugs. Which they were arrested for."

Result: Arrested

Comments: *This is an example of the officer recording a full narrative rather than merely the grounds of the search. The officer uses previous knowledge of the person to inform their grounds, which is prohibited by PACE Code A paragraph 2.2B(a). Whilst it provides a legitimate part of the narrative (i.e. why the officers first spoke to the subject), it cannot form part of the grounds.*

Example 4 Subject: 17 y/o Male

Grounds: The amle [sic] was seen in a group of 4 males where one has run on seeing police. It is well known that members of groups will run as a distraction for the members who are holding controlled items. The area is well knwon [sic] for weapons offences adn [sic] the VCTF have been tasked their as a priority borough due to risign [sic] levels of violence. Metal detector activated when used on suspects trousers so further search requested. 509024 declined

GOWISELY given in full Warrant car dnot [sic] shown as in uniform adn [sic] not requested BWV used for intial searh [sic] not further seach [sic] as per policy. Handcuffs sued [sic] to preserve evidence

Result: Community resolution for possession of cannabis.

Comments: *The officer again provides narrative and detail not relevant to the grounds. The officer cites their tasking as part of the grounds, which is legitimate, but the detail is relatively generic. The "Appropriate Adult" box is ticked, and details of the AA present are recorded in the relevant field. The details of where the further search took place (a Police Station) are recorded. The grounds for the further search appear to be the activation of a metal detector but the officer is unable to locate an object via the initial search. The grounds for the search are recorded as being for weapons, but the result is that drugs were found.*

Example 5 Subject: 17 y/o Male

Grounds: "[Redacted] when they have seen subject riding his e scooter on the road. Officers have approached subject and told him to stop, this was to speak to him about being on the highway with an e scooter. However subject ignored this request and speed off. Officers had to exit vehicle and gave chase. A long foot chase ensued. Subject was eventually detained under S23 MDA, this is due to him not stopping when being asked to, he has then fled and there was a short period where subject was out of sight and he could have discarded items of drugs when police gave chase. It is unknown if subject fled from police because he was concealing drugs and didn't want to be detained. Subject was placed in a rear stack handcuff position, during the course of the search inside his manbag, there was a calling card with

²³ NFA in this context means No Fixed Abode

²⁴ The subject declined a copy of the written record of this stop

phone numbers which indicating that subject was either dealing or picking drugs up. The bag itself smelt of drugs. There was no drugs found on his outer clothing. However previous intel suggested that subject conceals drugs and found with cannabis in his pants during a strip search. Subject has previous of p-wits²⁵. Due to him making off and the bag smelling of cannabis, I believed subject maybe concealing drugs. A further search was authorised by INSP [Redacted] and subject was taken home to conduct the further search.”

Result: No further action

Comment: *The MTIP search took place in the presence of an appropriate adult, recorded on the relevant section of the form. The grounds are written to almost retrospectively justify the search – i.e. that the bag contained phone numbers etc. The use of the E-scooter to justify the grounds is interesting: use of E-scooters is a common tactic used by drug dealers and robbery suspects to evade arrest. However, this is not articulated on the form. A stronger justification would be using the power to stop a vehicle (s.163 of the Road Traffic Act 1988) rather than immediately resorting to s.23 and then question the subject to strengthen grounds: e.g. noticing his bag smelled of drugs when speaking to him.*

The examples given above indicate how police officers view MTIPS as a solution to the everyday policing problems they confront. However, while we certainly recognise that there is a criminal and policing *problem* here, does the nature of the problem point to a policing *necessity* that is *proportionate* to the intrusion of a search exposing intimate parts?

Weighing and balancing policing goals: is the intrusion necessary and proportionate?

It is surprisingly difficult to find authoritative examples of when a search exposing intimate parts has been judged by objective observers to be both necessary and proportionate. *Wainwright* is one such case, but we note that this case concerned suspected supply of drugs into prison potentially via the prisoner’s visitors.²⁶

HMIC’s 2015 report on stop and search powers included a focus on the use of more thorough searches and more thorough searches exposing intimate parts²⁷ The report unfortunately says little about the operational justifications for carrying out searches exposing intimate parts. It merely restates the principle that they should be lawful, necessary and proportionate.

HMIC’s report is also silent on crime seriousness in relation to necessity and proportionality. However, we note MPS data indicating that MTIPS will frequently be used to confirm or disprove suspicion of possessing or dealing in small quantities of cannabis. Given the serious nature of the intrusion, it might be argued that necessity and proportionality suggest MTIPS should be restricted to more serious crimes; or to circumstances where a high threshold of suspicion (such as might justify an arrest) can be met.

We invite consideration of whether suspected possession of small quantities of cannabis is a proportionate use of such an intrusive power, or whether it should be restricted to situations of dealing in Class A drugs or crimes of equivalent seriousness. ([See Recommendation 1](#))

Regarding the threshold of suspicion, HMIC found that some senior officers did not think there was a need for this type of search. They told HMIC that it was preferable for officers to arrest a person and

²⁵ Possession with intent to sell

²⁶ The ECHR report does not specify the class of drugs, what gave rise to this suspicion, nor what made it reasonable to suspect the prisoner’s mother and disabled brother of being the suppliers.

²⁷ *Stop and search powers 2: are the police using them effectively and fairly?*

<https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/stop-and-search-powers-2.pdf> pp.65-73

then conduct a search using post-arrest powers at the custody suite. However, HMIC noted that some 15% of officers they surveyed reported conducting a strip search in the past month.

This degree of divergence between senior and junior officers is striking. That some senior officers did not see a need to conduct searches exposing intimate parts, except following an arrest, suggests they reason a search exposing intimate parts requires the same high threshold of suspicion as would justify arrest. On the other hand, front line officers appeared to view it as a useful method for establishing whether grounds for arrest existed.

We recognise that a valuable purpose of stop and search is to avert the necessity for an arrest. Avoiding unnecessary arrest is in itself valuable both to search subjects (who would otherwise acquire an arrest record) and to the police service (reducing processing time). On the other hand, carrying out an arrest prior to conducting a search exposing intimate parts could institute a clearer boundary around such searches. It would respect the degree of intrusion involved in such searches and make more stark the need to justify MTIPS.

We therefore invite MPS consideration of whether searches exposing intimate parts should be restricted to post-arrest situations as some Chief Officers have argued. This question is of course legally and operationally complex. We do not presume to answer to it, but we recommend that MPS be requested to do so. ([Recommendation 2](#))

We acknowledge that the two recommendations we have made in relation this section of our report carry significant operational implications. The Panel is not in a position to judge these. However, we think the MPS's considered answer to the Panel and MOPAC on these questions would be an appropriate response.

Impact on young people and other vulnerable groups

The scale of the intrusion represented by MTIPS may be greater for some groups than for others. This is notably the case for young people, but is also true for others as recognised in the College of Policing *Authorised Professional Practice* (discussed in the preceding section). We are not in a position to engage with all of the vulnerable groups, but we were able to consult MOPAC's Young People's Action Group regarding their views on and experiences of MTIPS.

Young people's views and experiences

The Young People's Action Group convened a focus group on our behalf to gather data. Their accounts of their own experiences and those of their family and acquaintances are concerning, especially bearing in mind that this is a group of young people who engage voluntarily with policing in London. The YPAG discussion took place after the publication of the Child Q report.

We cannot verify the following reports but see no reason not to rely on them.

Ostensible reasons for being searched

- The young people were aware of several cases of searches exposing intimate parts (the young people referred to it as strip search in their discussion). We heard of witnessing a 15 year old male being 'strip searched' multiple times in a council block and surrounding bushes; knowing a black male who was 'strip searched' after police thought he did not have insurance; and a family member who was 'strip searched' on grounds of past history.

- They reflected on how ‘police intelligence’ sometimes appeared to them to be faulty or racially biased. They heard police referring to places that were ‘known for drugs’, and then going on to assume that young people wearing the wrong type of clothing there were engaged in questionable activity.
- They considered that being in possession of cannabis was not sufficient grounds for MTIPS.

Conduct of searches

- One participant said that ‘knowing your rights’ led to personal ridicule. Another stated that as a young black girl you cannot argue with the police, as they will interpret it as aggression and it could give them further reason to ‘strip search’ you.
- There was a strong sense in the group that compliance was the only option.
- One participant commented that after seeing people’s genitalia officers made jokes, reinforcing the status and power differential.
- We heard a view that ‘strip searches’ were not properly noted down and recorded.
- Participants were aware of good rapport and better relationships with local police officers, which they contrasted with the behaviour of ‘outsider’ police such as TSG and CID.

Impact of searches

- The young people’s experiences had led several to believe that police had targets and quotas to meet for searches and arrest, which encouraged police to act when it was not strictly necessary.
- One participant summed up the sentiment of several others: “These people are supposed to be protecting us, yet they place fear upon us”

MPS response to Child Q

We note that MPS has already taken steps to better protect the interests of children and young people where MTIPS search may be perceived to be necessary. In its evidence to the GLA Police and Crime Committee it recognised further work is required to ensure that officers adopt a safeguarding approach to interactions with minors. Since the Child Q case they have however introduced the following measures:

- i. Automatic review of all MTIPS (and strip searches in custody) carried out on minors.
- ii. Following any MTIP search on a minor, a detailed report will be created on the MPS Merlin database. This will be flagged to the Multi Agency Safeguarding Hub to trigger a trauma informed response. If appropriate the case would be escalated via the City and Hackney Children Safeguarding Partnership for further scrutiny and challenge.
- iii. A child-centric stop and search review panel (not restricted to MTIP searches) has been convened, involving the community and professional partners. The panel will scrutinise search activity, review the BWV, critically evaluate whether there has been a 'safeguarding first' approach and to highlight and raise any identified adultification.

Should members of vulnerable groups be exempt from MTIP searches?

Given that the level of distress or trauma will be far greater in some groups than others, there may be a view that the scale of the intrusion that MTIPS represents would almost always be disproportionate except in the most serious offences or where immediate harm to self or others²⁸ was at issue.

However, we note that there is some potential for unintended consequences if a protected group – such as minors or vulnerable adults – were to be generally exempt from searches exposing intimate parts. An automatic exemption could make vulnerable people more liable to being exploited as transporters of drugs or other contraband (whether through trickery, coercion, or payment). Indeed, PACE Code A notes that younger children already are exploited in this way.²⁹

An exemption may therefore not be protective and have the reverse effect, placing minors and vulnerable adults at greater risk of criminal exploitation. The young people we spoke with could see a real prospect of coercion by others more liable to search than themselves.

We note this is a complex issue and we expect that it will be pursued by other stakeholders looking at the treatment of minors. We are therefore not making a recommendation in relation to it.

²⁸ Which would engage Article 2 of the Human Rights Act

²⁹PACE Code A guidance: “It is not uncommon for children under the age of criminal responsibility to be used by older children and adults to carry stolen property, drugs and weapons and, in some cases, firearms, for the criminal benefit of others, either: in the hope that police may not suspect they are being used for carrying the items; or knowing that if they are suspected of being couriers and are stopped and searched, they cannot be arrested or prosecuted for any criminal offence.”

SECTION FOUR - CONTROLS

Searches exposing intimate parts are exceptional powers that call for robust justification, and concomitantly robust monitoring and assurance. Here we review current practice in relation to the controls in place to help MPS ensure that MTIP searches are proportionate, necessary, and carried out in a respectful manner. Effective controls include well-formulated and well-presented policy and guidance setting standards that are practically achievable; and data systems that enable leaders to gain assurance that guidance is being implemented in practice.

MTIPS guidance.

We first consider the guidance that MPS provides to its officers. This was shared with us, along with the MTIP 12 graphic that summarises the guidance. [The MTIP 12 graphic is reproduced in Appendix 2.](#)

Analysis

We used the College of Policing *Authorised Professional Practice* to review how far MPS guidance appears to be in alignment with national expectations. The APP is evidence based and incorporates Paragraph 11 of Annex A to PACE Code C, which sets out the legally derived framework for searches exposing intimate parts.

We have not commented on all elements of the MPS guidance. We have focussed on those where we consider MPS guidance either goes beyond the APP guidance and is good practice, or where we think it does not meet the APP standard.

Information to be given to the subject prior to the search

The MPS guidance is silent on what the citizen should be told prior to an MTIP search. This may be because standardised prior information is required for all stop and searches, but at first sight it is a striking omission.

The APP for stop and search promotes the “GO WISELY” acronym (**G**rounds for the search, **O**bjective of the search, **W**arrant card if not in uniform, **I**dentification, **S**tation attached, **E**ntitlement to a copy of the search record, **L**egal Power used, **Y**ou are detained for the purpose of a search). However we doubt that this is sufficient for the purposes of MTIPS, when the citizen experiences a demand to submit to an exceptional interference with their right to privacy and when some may be justifiably distressed and fearful.

We consider this to be an area where the guidance could be improved. [See Recommendation 3](#) and also [Recommendation 6](#)

Authorisation and supervision.

The local BCU Inspector’s authority must be obtained prior to search. The MPS guidance states that general stops and searches are to be supervised by a sergeant, and goes further for MTIP searches which must be authorised by an Inspector. This suggests that MPS recognises that a higher threshold of justification needs to be met for an MTIP search, and that an experienced senior officer is better placed to make an appropriate judgement. In this sense the MPS guidance sets a higher standard than the APP, which states only that a supervisor’s authority is required of searches exposing intimate parts.³⁰

Conducting MTIP searches on minors and vulnerable adults

The MPS guidance is explicit in requiring the presence of an appropriate adult unless the person does not wish an appropriate adult to be present; defines who qualifies as an appropriate adult; describes the role of the appropriate adult; and identifies the need to enter the minor’s details on the MPS Merlin database which feeds into multi-agency safeguarding arrangements.

³⁰ College of Policing APP: “Where a search exposing intimate parts of the body (EIP search) is carried out, the search record should include confirmation that a supervisor was consulted, who this was and when they were consulted... If the search is an EIP search, the explanation should include the reasons why an EIP search was necessary (the reasons discussed with the supervisor).” <https://www.college.police.uk/app/stop-and-search/transparent#app-requirement>

Conducting MTIP searches on females

Alongside the general guidance on maintaining respect and dignity, guidance is given on searching women who may be menstruating. This aligns with the College of Policing APP guidance for searching women and trans men in custody, so is rightly applicable in the MTIPS context.

Maintaining dignity and minimising embarrassment

The MPS guidance is clear and in line with the APP that upper and lower clothing should be removed separately.³¹ Whilst intimate and genital exposure is intrinsically embarrassing, we accept it may be a little less so when the person knows they will not be required to be wholly naked in front of officers. See also our comments below on minimising intrusion.

Recording the search

The MPS guidance currently instructs officers to switch off Body Worn Video and CCTV. This differs from the current APP which advises that during a search exposing intimate parts BWV cameras should be directed away from the person, but audio recording remain activated so that there is a non-visual record of the interaction.³² We understand that this is not currently MPS practice but are not clear on the reasons for the divergence. On the basis of our visit to one of the new MTIPS search areas, we are also unclear whether these are to be equipped with audio recording facilities.

As there may or may not be compelling reasons for the divergence between the APP and MPS practice in relation to audio recording, we recommend that MPS's preferred practice be explained. ([Recommendation 4](#))

Same sex requirements, searches of transgender people and searches by transgender officers

MPS guidance is clear on the need for the search to be carried out by officers of the same sex. The guidance also sets out with clarity how to meet the requirements relating to searches involving trans citizens or trans officers. These stipulations appear to follow the APP on Detention and Custody, and Annex L to PACE Code C. They are usefully brought together into this guidance on MTIPS.³³

Care for people following an MTIP search

The MTIP 12 and MPS guidance include suggestions for considering the needs of the person after an MTIP search, such as offering them transport back to the location they were detained or another suitable place. This goes beyond the APP advice on professionalism, and we are pleased to see it here as appears to us to constitute the bare minimum of aftercare especially where the outcome of the search is No Further Action. We think that arranging transport back from an MTIPs or other area is a basic courtesy that should ordinarily always be given, along with simple hospitality where circumstances require it (e.g. food and drink, access to washing and toilet facilities, means of communication with support network).

³¹ Proper regard shall be given to the sensitivity and vulnerability of the person, and every reasonable effort should be made to secure the person's cooperation and minimise embarrassment. They should not normally be required to remove all their clothes at the same time. For example, a person should be allowed to remove clothing above the waist and redress before being required to remove further clothing, subject to necessity in the circumstances.

<https://www.college.police.uk/app/stop-and-search/legal/legal-application#search-involving-exposure-of-intimate-parts-of-the-body>

³² College of Policing APP: "Where an EIP search takes place, officers should record the encounter in accordance with force policy, but should cover the camera (or direct it away from the person) whenever intimate body parts are exposed. Audio recording should remain activated. The officer should explain to the person that the recording is for the protection of all parties and reassure them that intimate parts will not be filmed." <https://www.college.police.uk/app/stop-and-search/transparent#using-body-worn-video-to-record-information>

³³ <https://www.college.police.uk/app/detention-and-custody/detainee-care/equality-and-individual-needs#transgender-detainees->

Complaints

MPS guidance refers to giving the person searched a copy of the search report. It suggests consideration be given to speaking with them and / or the appropriate adult to identify any concerns that may have arisen during the search. By way of contrast the APP guidance includes ensuring that the person is made aware of how to make a complaint, which is rather more explicit than the MPS guidance.

We understand that MPS has been giving consideration to how they might maintain contact with subjects of MTIPS, for example to support them to raise dissatisfaction or make a complaint. We asked what steps could be taken to contact the person searched if subsequent review suggested the search was unreasonable or improperly conducted. We were told that requesting a postal address could cause difficulty as another person might open the letter, resulting in a data breach. Currently, people are asked if they would like to give their email address.

We acknowledge the difficulties here but would urge MPS to seek secure ways to communicate with and receive feedback from citizens who have been the subject of searches.

Taking steps to minimise the intrusion

At the time of our discussions with MPS they were developing MTIP search areas distinct from police custody suites, where MTIP searches could be carried out. We were able to view one of these search areas, and were shown guidance for officers that was available in the suite to help support good search practice. We understand that some officers show this guidance to those being searched in order to reduce the subject's anxiety.

We have no data on citizens' experience of searches carried out in MTIP search areas, nor on their experience of being transported to them (which in London could take some time). We understand that a small number of other forces have experimented with equivalent provision. So far as we know these have not yet been evaluated, and there is no national guidance on this topic.

We think the use of MTIP search areas could facilitate more dignified and respectful searches, but perhaps have the disadvantage of delaying the search process and therefore potentially increasing anxiety. We would encourage evaluation of both citizen and police experience of MTIPS being carried out in MTIPS areas as these are developed. ([Recommendation 5](#))

We can also see benefits to giving a clear explanation to search subjects about how they will be searched, notably that they will never be entirely naked (with the top and bottom of the body searched separately) and that their intimate parts will not be touched. Unambiguous information would go some way, we believe, to demonstrating respect, minimising anxiety, and reducing the degrading and humiliating elements associated with being subject to another's power. Visible, open MPS standards against which the MTIP search can be judged also provide a protective function for both subject and searching officer through creating shared expectations. If this information can be provided without compromising the integrity of the search, we would urge it be made routinely available to search subjects and in the MTIPS search area. ([Recommendation 6](#))

There have been suggestions that next generation ferro-magnetic scanning technologies that are cheaper, smaller, more sensitive and more mobile than knife arches could reduce the need for searches exposing intimate parts. However, noting that some 80% of MTIPS are on grounds of suspicion of drug dealing, portable scanning technology may have to develop further if it is to become a realistic replacement for searches exposing intimate parts.

Monitoring and assurance

We have noted above that MPS's MTIPS guidance is closely aligned to principles of good and ethical practice as set out in the College of Policing's APP. In this section we consider how effectively key elements of ethical MTIP searches are monitored, and therefore the extent to which MPS can derive assurance that practice in the field is consistent with the ethical intentions of practice as set out in its guidance.

We have used the grid below to guide our analysis for the purposes of this report. Each line takes a point in time, and each column considers a locus of responsibility.

	Examples of individual actions	Examples of supervisor actions	Examples of organisational actions
<p>PREPARE</p> <p>When is MTIPs justified?</p> <p>How to judge whether it is necessary and proportionate in a given situation?</p>	Undertakes appropriate training, maintains openness to learning, commits to ethical policing, sustains reflective practice.	Up to date knowledge, commitment to ethical practice in order to mentor, advise and support. Encourages ongoing professional reflection.	Provision of appropriate training for officers and supervisors, insistence on ethical values and practice. Ensuring organisation supplies appropriate information for use of suspected persons.
<p>PERFORM</p> <p>How to do the search?</p> <p>Is it conducted in an ethical and procedurally just manner?</p> <p>How well was the suspected person helped to understand their rights?</p>	Understands impact of MTIPS. Uses considered situational judgement including NDM and Code of Ethics. Gives appropriate weight to factors affecting proportionality and necessity. Seeks authorisation. Follows MTIP guidance and considers vulnerabilities. Provides clear information. Makes effective record.	Exercises 'professional curiosity' in considering request to authorise MTIPS. Appropriate monitoring of officers conducting searches. Ensures accurate and complete records are maintained by searching officer and self.	Facilitates an appropriate monitoring regime and identifies minimum data required to provide assurance. Reviews aggregate data on proportionality, outcomes, use of this power. Pays attention to suspects' experiences, takes complaints seriously.
<p>PLAYBACK</p> <p>In retrospect was the search justified?</p> <p>How did the person being searched experience the interaction?</p> <p>What have we learnt?</p>	Reflective evaluation of search process. Recognises own feelings, and feelings of searched person	Timely feedback to officers. Initiating and responding to reflective practice sessions. Learning derived from officers' activities. Remedial action	Ongoing review of monitoring data. Corrective action taken when necessary. Empathetic complaint management

Our comments in this section refer mainly to the supervisor and organisational domains in the grid above. MPS (along with other police services) faces challenges in gathering and monitoring accurate data to provide assurance on how well officers, supervisors and organisational policies are fulfilling the roles and purposes assigned to them. We recognise that data collection is rarely cost free, but minimising the intrusion associated with MTIPS (as well as custody strip searches) requires effective data collection and analysis.³⁴ On the basis of our discussions to date we think several aspects of monitoring and assurance could be enhanced.

Monitoring and assurance data: current issues

It has been recognised both within the MPS and by others (including MOPAC and the Children's Commissioner) that the MPS's current data systems do not support effective monitoring of MTIPS. This was apparent to the Panel when we requested some typical examples of MTIP searches of both adults and children and MPS carried out a small dip-sampling exercise on our behalf.

- As the Children's Commissioner noted, there is no legal requirement on people who are stopped and searched to provide a date of birth or produce identification with date of birth recorded. Many of the stop and search records found in sampling supplied an age, but not a date of birth.³⁵ It is hard to judge the extent to which the recorded age is accurate. Difficulties in verifying age give rise to the possibility of either over-estimation or under-estimation of the age of those on the cusp of adulthood, a group more likely than younger children to be found in situations where suspicions of drug possession, dealing, and carrying a weapon could arise. According to the Children's Commissioner's data, in 2018-2020 73% of MTIPS of minors were of males in the 16-17 age group. It seems possible that other older children may have been treated as adults during MTIP searches, because their age was misjudged or misstated.
- MTIPS cannot be carried out on a minor without the presence of an appropriate adult, so accurate age identification in order to differentiate older children from young adults is of considerable importance. This is not currently provided for under PACE Stop and Search provisions.
- Stop and search details are entered on the electronic information system, according to a structured format, by the officers carrying out the search. At present the grounds for the search are entered in a free text field, with specific boxes for elements such as the presence of an appropriate adult. The Children's Commissioner noted that reading the record as a whole sometimes yields discrepant or missing information. Besides those issues noted by the Children's Commissioner, our sample suggests that the free text field not infrequently omits key information including why an MTIPS (not a less intrusive search) was considered necessary and proportionate in a particular case. It instead provides a general justification for a search. Moreover, background information (e.g. suspect was in a known drugs hotspot, was a known offender etc.) is provided by way of justification for the MTIPS.
- There are other free text fields available, such as a box for "extent of search". Some officers used this field to include their justification for why they were doing an MTIP search, although that is not the intended purpose of the field.

³⁴ College of Policing APP "Transparency requires data to be of sufficient quality to permit analysis of trends or patterns. Individual encounters must be documented in sufficient detail so that they can be reviewed to assess whether or not the powers are being used in the right circumstances and for the right reasons."

³⁵ The College of Policing APP notes "Code A does not require the person searched to give their name, date of birth, address or any other contact details. Officers must take care not to create an impression that the person is obliged to do so."

We have drawn attention to the difficulty of accurately identifying and recording a person's age, and the scope for ambiguity where the subject is a mature minor who may not appear to be a child but should be treated as one. We do not see an easy solution to this, but consider it should be a matter for discussion with MOPAC in relation to their oversight powers. ([Recommendation 7](#))

We think that clearer prompts for officers recording the data – for instance a separate field requiring 'MTIP Justification, including necessity and proportionality' – would support better monitoring and potentially better practice in time-limited situations. ([Recommendation 8](#))

Monitoring & assurance data – meeting minimum data requirements in future

We have been told that ongoing development of MPS data systems promises the prospect of monitoring and assurance needs being better met in the near future. We are therefore taking this opportunity to set out our view of minimum data requirements needed to support effective monitoring of MTIPS.

Ethical MTIPS practice must meet demands of fairness and transparency in the conduct of individual searches. Fairness must also be demonstrable in the distribution of searches across London's diverse communities, so as to uphold trust in the manner in which this exceptional power is used.

A common route to assessment of compliance and fairness is random selection of case histories, and statistical analysis of data collected over many search episodes. However monitoring of individual action and publication of aggregate data call for accurate data inputs (the so-called Garbage In, Garbage Out problem), clarity and consistency regarding how data will be analysed and interpreted, and disclosure of any pre-processing and filtering when data are published.

From a data collection perspective, data should ideally be recorded contemporaneously and electronically to ensure the accuracy and completeness of records upon which future analysis will depend. We understand contemporaneous electronic record making is already MPS practice. In common with other fields of professional practice, creating contemporaneous records can have benefits for structured decision-making and accountability. However, it may also have less advantageous effects on professional communication with members of the public during an encounter and can increase work intensity.³⁶ It is therefore desirable that officer experience of data entry is optimised, and it is made as easy as possible for them to rapidly input the information that is needed for legal, monitoring and assurance purposes. The overriding requirement is that data should be of sufficient scope and detail so that an external reviewer can reconstruct events, appraising both the justifications for action and key aspects of the subjects' experiences of the encounter.

We have examined the data requirements set out in *Authorised Professional Practice* and are largely in agreement with these. However, we consider they can be improved upon in the light of points raised in this report, so we set out our own list of data requirements below noting any variance from the minimum specified in the APP on Stop and Search:

- Name of the subject
- Age (*Note previous comments on difficulties in verifying age*)

³⁶ Koper, C., & Lum, C. (2019). Critic: The Limits of Police Technology. In D. Weisburd & A. Braga (Eds.), *Police Innovation: Contrasting Perspectives* (pp. 517-543). Cambridge: Cambridge University Press. doi:10.1017/9781108278423.023

- Self-identified sex or gender (required for MPS to be assured search practice is consistent with its own policy on legitimate same sex or same gender search) (*The APP stipulated minimum requirement for Stop and Search does not currently include sex or gender identity*)
- Self-identified ethnicity (*APP also calls for officer perception of ethnicity in the event the subject does not provide it, or it appears incongruous*)
- Date time and place subject was first detained
- Date time and place MTIPS was carried out (*This is not stipulated in APP, but we note that as MTIPS should be carried out in a private place this ought to be different from where the subject was first detained*)
- The article(s) the officer was searching for when subject first detained
- The specific rationale for MTIPS as distinct from less intrusive search ([Note Recommendation 8](#)) (*APP calls for a clear explanation of the legal basis for the search; MPS records indicate that generic legal reasons for a search frequently take the place of a clear argument for MTIPS, so we consider a prompt is required for greater specificity*)
- Details of the authorisation of the search (date, time and name)
- Confirmation that the subject was advised of their rights in advance of the search (*This is not required by APP, but we note that some MPS officers do currently refer to GOWISELY in their record*)
- The identity along with sex or gender (as relevant) of the officers present at the search (*APP does not stipulate sex or gender of officers but this should be ascertainable in order to show compliance with PACE requirements*)
- Name and contact details of the appropriate adult present in the case of a child or vulnerable adult (*This is not included in the APP*)
- The outcome of the search, specifically in relation to its intended purpose
- Action taken at the conclusion of the search, including assistance to return to a preferred location and advising the subject of their right to give feedback or complain. (*This goes beyond APP minimum requirements*)

We would expect entries to be time stamped and secured from change without good reason and approval. On those occasions where there is good reason to edit the record the system should also record:

- The name of the person requesting a change, the change requested and the reason why
- The identity of the authorising officer
- The original data in addition to the revised input (i.e. the original data should be retained and not over-written)

We have not systematically reviewed the degree to which current MPS IT records and systems meet these expectations. However, we have noted in the course of our work that retrieved records relating both to MTIPS and to searches in custody included a proportion that appeared inaccurate or incomplete.

Monitoring and oversight

Comparison of numbers and outcomes from searches instigated by different officers is superficially attractive as a measure of individual effectiveness or performance. Data monitoring could also be explored as a means by which to flag possible systematic abuse of power or unwelcome behaviour by identifying statistical outliers. While analysis would likely reveal differences between officers, attaching meaning to even significant differences would be harder. Officers are not deployed identically, and interpretation of differences in search rates would require consideration of a wide range of factors in order to settle on a satisfactory explanation.

Monitoring for disproportionality presents particular challenges. Using statistical data to test for evidence of systematic discrimination requires comparing the proportion of groups in a sample (e.g. young black men who have been subjected to MTIPS) with the proportion of those same groups within an identified reference population. Calculating over-representation or under-representation in a sample requires specifying what that reference population should be for purposes of comparison.

In relation to stop and search more generally, and MTIPS specifically, what is the appropriate reference population to employ? With London's rich ethnic diversity the UK population is an inappropriate comparator. Specific demographic data are available for boroughs in the Greater London area, but these are not entirely satisfactory for comparative purposes because areas with very different character and populations exist in proximity, alongside concentration of some communities in particular parts of the city. Moreover, London is a mobile population. The population visible in public places at different times of day rests on a wide variety of contextual factors such as proximity to the night time economy, local demographics, employment opportunities and travel patterns.

Apparent disproportionality may be a result of policing practice and policing bias (including over-policing of some communities and under-policing of others). It may also result from factors such as the pattern of use of public places by different groups. For example patterns of drug purchase that allow better off people to acquire illicit drugs via home delivery means that others undertake the risks of carrying them in public places. Lower level, localised data are required in order to interpret the causes of statistically evident patterns of criminal and policing activity. We recognise that selection of appropriate reference points presents a considerable challenge if data are to be fairly interpreted. Whilst we have offered a comparison between ethnic groups in the MTIPS data that supplied in Appendix 1, we recognise that using pan-London data may not account for local diversity.

Open data strategy

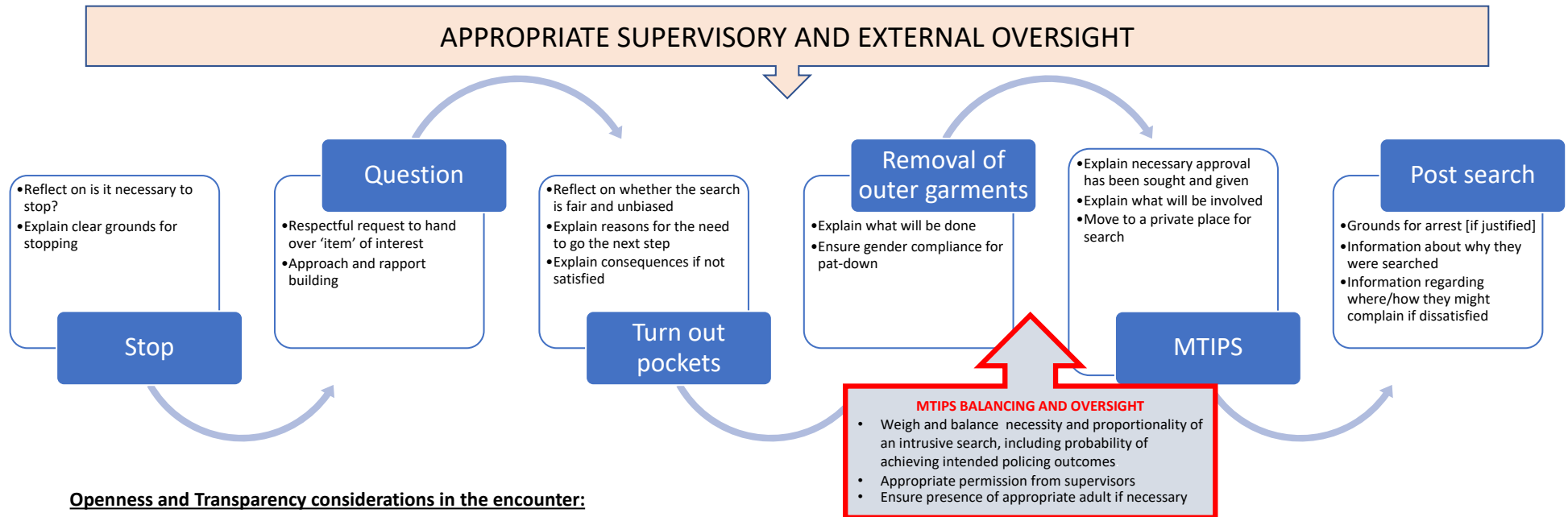
We are aware of, and we welcome the ethical intent behind, the emerging MPS Open Data Strategy. Our comments above on disproportionality in MTIP searches indicate, however, the potential for erroneous conclusions to be drawn from statistical data. It would be helpful to share and present data in such a way that it makes clear the difficulties in drawing inferences from them

CONCLUSION

By way of a concluding summary, we offer a graphical representation of key ethical considerations surrounding MTIPS. We then set out nine recommendations for MPS and MOPAC to consider.

Ethical considerations governing the encounter: [Principles of Procedural Justice]

1. Consider the scale of intrusion and whether the social benefits to be gained justify intruding through stop & MTIPS, weighing this at each stage of an encounter.
2. Give a clear, accurate and respectful account for why the stop and search is taking place.
3. Give the person the opportunity to hand over items of interest or explain their presence.
4. All actions must be undertaken with total respect for the person’s dignity and modesty.
5. Active reflection on own judgement and motivations to progress the encounter, balancing in particular the scale of intrusion, necessity and proportionality, and whether foreseeable detriments of initiating search will be outweighed by anticipated benefits.



Openness and Transparency considerations in the encounter:

1. Clear grounds identified and presented to subject at each stage of the encounter.
2. Explanation for why the encounter is moving on to the next stage and what is hoped to be achieved.
3. Explanation at each stage of what will happen next and justification for moving to the next stage.
4. Information about complaints process post encounter – [make the complaints process simple and transparent]
5. Feedback to the complainant on the outcome of the complaint [if any]
6. Accurate data entry and record keeping covering decision making in each stage
7. Internal and external accountability with openness to scrutiny at every stage

RECOMMENDATIONS

Recommendation 1 Consider whether use of MTIPS is justified in cases of possession of small quantities of cannabis

We invite MPS to supply a reasoned justification for the use of MTIPS when searching for small quantities of cannabis, including the criteria for judging necessity and proportionality in these circumstances.

Recommendation 2 Consider whether MPS should use arrest powers instead of MTIPS

HMIC's 2015 report found that some senior officers thought MTIPS type searches were neither necessary nor desirable, and the power of arrest should be used instead. We invite MPS to consider whether it would be appropriate to replace MTIPS with use of arrest powers, and to provide reasons for their judgement on this matter.

Recommendation 3 Improve guidance on information given at point of decision to proceed to MTIPS

The current MTIPS guidance to officers is does not specify what information should be given to subjects of a proposed MTIPS. We think the information must include the specific reasons and justification for exposure of intimate parts. We think that it could be beneficial for MPS to review the nature of information provision in discussion with their relevant IAGs. We also (see Recommendation 6 below) believe that subjects should where possible be informed in an empathetic manner how the search will be carried out and it made clear that the subject will never be wholly naked.

Recommendation 4 Justify or change practice of not using audio recording during MTIPS

MPS recognises that it does not currently follow the College of Policing APP that BWV should be in audio recording mode during MTIPS, and we note that the new MTIPS areas seem not to include audio recording facilities. MPS should explain the reasons for this discrepancy with APP and, if it is intended to modify MPS practice, when this will happen.

Recommendation 5 Evaluate the introduction of MTIPS areas

We believe the MTIPS areas are potentially a worthwhile improvement, but we also envisage some disadvantages. We would encourage a systematic evaluation of subjects' and officers' experiences of using them with particular focus on whether it is a better experience for subjects.

Recommendation 6 Give subjects information about the process of the search

If information about the process of MTIP searches can be provided without compromising the integrity of the search, we would urge it be made routinely available to search subjects and in the MTIPS search area (e.g. in the form of a wall poster in the search room).

Recommendation 7 Consider how to reliably judge the age of young people to be MTIP searched

Engage with stakeholders to explore the challenge of accurately identifying the age of apparent children for whom MTIPS is proposed to be used, to ensure that all those under 18 are appropriately safeguarded, particularly where older children may appear to be adults.

Recommendation 8 Continue to improve processes that enhance decision making and accountability, in particular by utilising data recording practice

We support the requirement for MTIPS to be authorised by an Inspector. We think there may also be scope to make use of MPS's existing data recording technology to prompt structured reasoning.

We recommend considering the feasibility and desirability of a specific field in the electronic record to prompt officers to accurately record 'MTIPS Justification, including necessity and proportionality'. This could help ameliorate what appears to be a tendency to provide a narrative rationale for a general search, as opposed to a clearly specified justification for proceeding to MTIPS.

Recommendation 9 Take steps to ensure, and provide assurance, that use of MTIPS is limited only to those situations where the scale of intrusion is genuinely justifiable

This general recommendation is made in light of our report overall. We understand that MPS has reviewed officer training and other systems requirements in relation to MTIPS of children, so this recommendation is made mainly in respect of MTIPS of adults.

Searches exposing intimate parts require a balanced judgment to be made by officers about whether the situation they face is one in which this exceptional power *should* be used: that it is legal, necessary, proportionate, and ethical to do so. Having reviewed the totality of the data available to us we believe that some of the situations in which MPS officers decide to initiate such searches may not meet all of those requirements.

We therefore invite MPS to:

- a) examine its own data to consider this potential discrepancy;
- b) consider any reasons it may exist;
- c) outline actions it thinks appropriate to address it; and
- d) implement assurance mechanisms to build confidence that individual officers have been guided and supported to enact this power appropriately.

The view of the Panel is that multiple factors influence decision making and will impact on officers' on-the-spot assessments of effective policing, necessity and proportionality, and ethically justifiable actions, in what are invariably complex and fast moving situations. These are likely to include the provision of advice, support and training, the standards applied by authorising officers, the quality of first line supervision, the influence of hotspot policing, and the policing goals in BCUs.

Appendix 1 MTIPS Data

Chart 1 Total number of MTIP searches by year 2018 -2021

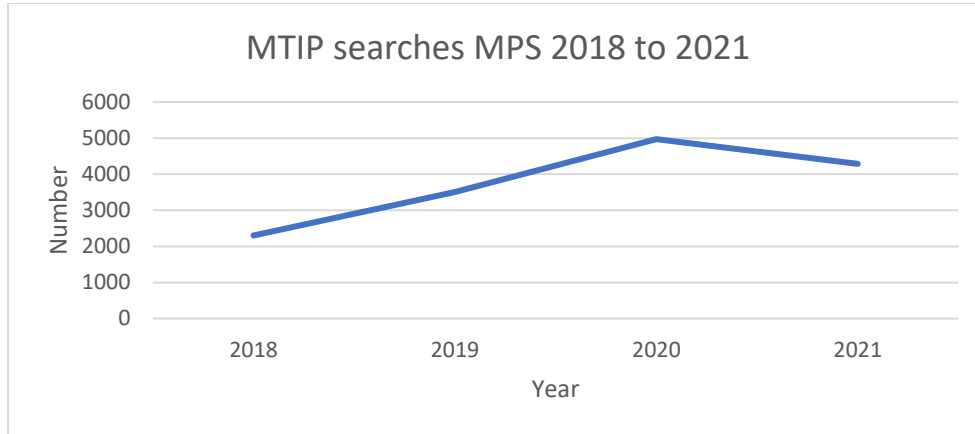


Chart 2 Number of MTIP searches by ethnicity

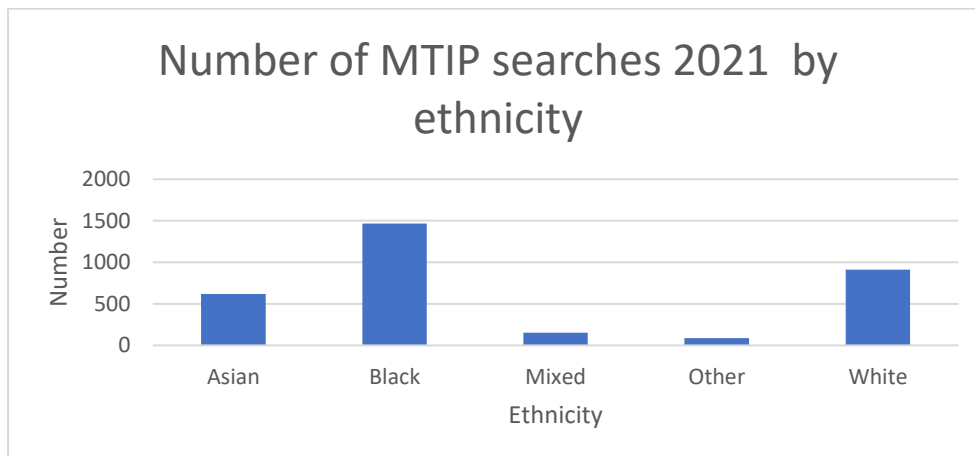


Chart 3 Population by ethnicity, Stop & Searches and MTIPS

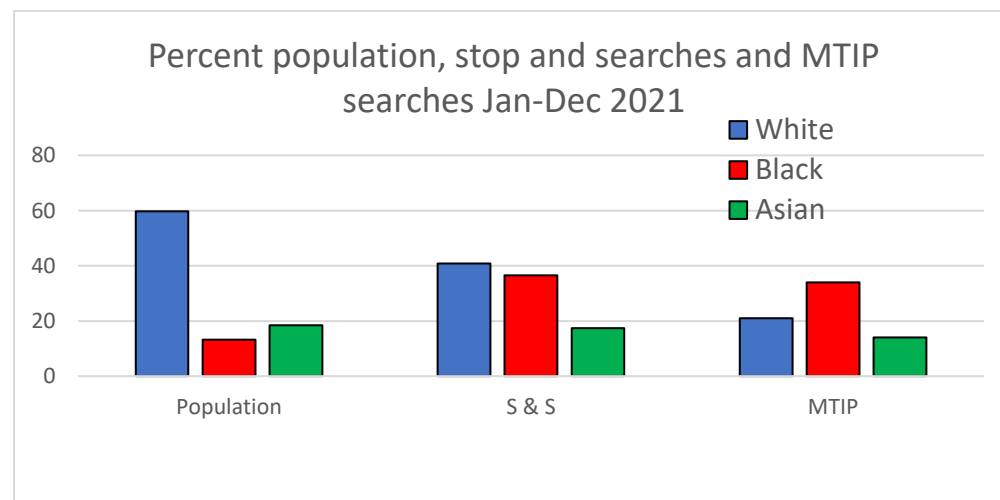
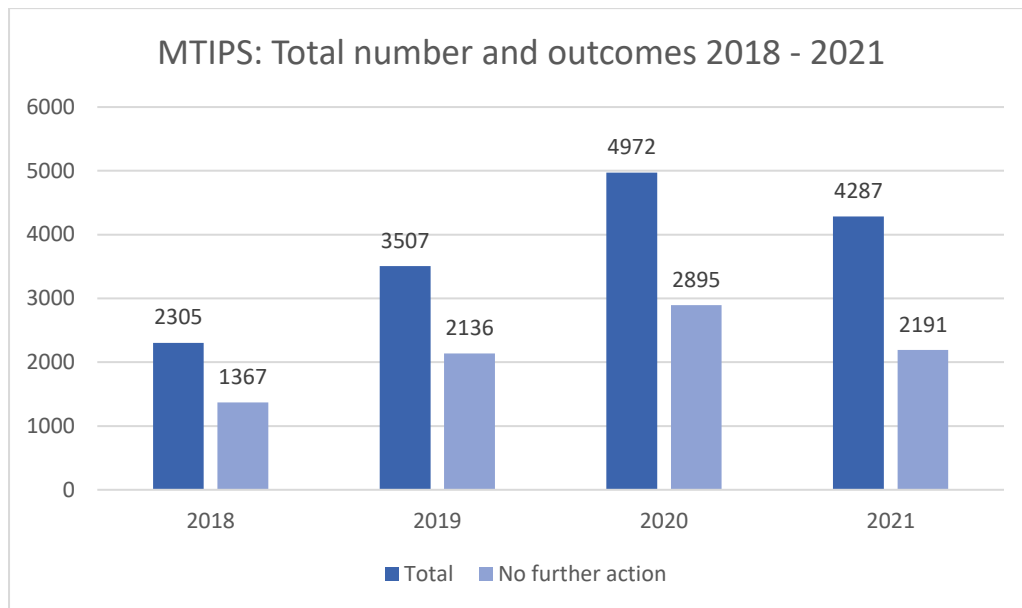


Chart 4 MTIPS numbers and outcomes by year 2018 - 2021



Observations

- The reference population used in Chart 3 above is the London census population
- White people are proportionately less likely to be stopped, and less likely to be subject to MTIPS
- Black people are proportionately more likely to be subject to a stop and search and they are subjects of MTIPS in proportion to the percentages stopped
- Asian people are stopped roughly in proportion to the population and are subject to MTIP in proportion to the numbers stopped.
- An outcome of No Further Action does not necessarily mean that the search was unjustified

Appendix 2 The MTIPS 12

More Thorough search where Intimate Parts are exposed

Searches involving exposure of intimate parts must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search. In order to conduct a more thorough search, the searching officer must reasonably consider:

- ✓ The detained person may have concealed an article for which the officer has reasonable grounds to search for; and
- ✓ an MTIP search is proportionate and necessary to find such an article.

Remember
the MTIP

12

- 1** **MUST** suspect item is in their underwear
- 2** Local BCU Inspector's authority **MUST** be obtained prior to search
- 3** CAD **MUST** be created for all MTIP searches
- 4** Out of public view and somewhere suitable to be partially naked, **NOT** in police vehicle
- 5** Under 18? - A/Adult **MUST** be present unless urgent risk of serious harm
- 6** A MERLIN referral **MUST** be submitted for all MTIPs on those under 18
- 7** At least 2 officers of same sex. No more than 2 unless exceptional circumstances
- 8** Turn BWV off. No CCTV
- 9** Remove upper and lower clothing separately to avoid embarrassment
- 10** No physical contact with intimate parts - if something is found ask them to hand it over
- 11** If necessary to assist the search, ask the person searched to bend over but not to squat
- 12** Consider the post MTIP checklist - Where possible offer a lift back



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